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March 19, 2007

Instruction Memorandum No. WY-2007-011

Expires 9/30/2008

To: Field Managers
From: State Director
Subject: Memorandum from the Solicitor, Using State CWA Permitting Processes in BLM NEPA Analysis

Please find the attached memorandum prepared by the Regional Solicitor, Rocky Mountain Region regarding the Bureau of Land Management's (BLM) use of the state regulatory agency permitting process performed under the authority of the Clean Water Act (CWA) when approving actions authorized by an Application for Permit to Drill (APD). The memorandum says it relates primarily to coalbed natural gas (CBNG) in Wyoming, but could apply to any operation where water is a by-product of oil and gas development.

Specifically, the memorandum focuses on how BLM may use the information from permits issued by the state regulatory authority in preparing National Environmental Policy Act (NEPA) documentation prior to APD approval.

As outlined in the informal opinion, BLM will follow the process found in Onshore Order No. 7 in a manner complementary to the State of Wyoming's role in administering the CWA. BLM may continue to use the state water quality standards, required terms and conditions of the Wyoming Pollution Discharge Elimination System (WYPDES) permit, and state effluent limitations to determine whether there are impacts resulting from water produced during natural gas production. To help ensure other Federal resources are considered, the memorandum encourages BLM to participate, as necessary, in the state's public process for review and comment on draft WYPDES permits.

The memorandum outlines a typical NEPA analysis approach based on its regulatory relationship with other pertinent State and Federal laws. When processing APDs, Field Managers may continue to use the most efficient processes to comply with requirements of NEPA and Section 390 of the Energy Policy Act.

Please contact Rick Schuler, Physical Scientist, at 307-775-6092, Brenda Vosika Neuman, Physical Scientist, at 307-775-6179, or Janet Kurman, NEPA Specialist, at 307-775-6443, if you have questions in this matter.

/s/ Mary Trautner
Acting

1 Attachment:

1 - Using State CWA Permitting Processes in BLM NEPA Analysis (8 pp.)